IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.12588 of 2006

Dated: September 15, 2006

Between:

Bharatiya Vima Karmchari Sena, rep. by its President, R.B. Singh, S/o. B.N. Singh, aged About 46 years, working as Senior Divisional Manager, New India Assurance Company Ltd., Nizamabad.

… Petitioner

And

Union of India, Secretary, Ministry of Finance And Company Affairs, Department of Economic Affairs, Insurance Division, 'A' wing, II Floor, Loknayak Bhavan, Khan Market, New Delhi-3, And others.

... Respondents

Order:

The petitioner, a Trade Union registered under the Trade Unions Act, 1926 ('the Act' for brevity) comprising employees of four Public Sector undertakings, namely, New India Assurance Co.

Ltd., National Insurance Co. Ltd., United India Insurance Co. Ltd., and Oriental Insurance Co. Ltd., has filed this writ petition seeking Mandamus to declare the action of respondents 2 and 3 in effecting transfers of Assistant Administrative Officers (Administration and Development) and Administrative Officers (Administrative and Development) pursuant to letter dated 05-09-2005 as illegal and arbitrary.

2. Heard learned counsel for the petitioner, Mr. A. Rajasekhara Reddy for the first respondent and Mr. V. Srinivas for the second and third respondents.

3. The case of the petitioner is that the New India Assurance Company Ltd., has formulated Transfer and Mobility Policy with respect to the officers working with the company during the month of March, 2002, with certain objectives. A copy of the said Policy has been filed in the material papers, in which there is a clause to the effect that on completion of Normal Period of Posting ('NPP' for brevity) an officer may be considered for transfer from existing place of posting irrespective of assignment, and such exercise shall be done during the first quarter of every year.

4. Learned counsel for the petitioner would contend that, though there is a rigid policy to the effect that transfers have to be effected only in the first quarter of a year, the respondents are effecting transfers of the officers in the middle of the academic year. It is stated that the children of all the officers who are studying in the schools are in the middle of the academic year and if transfers are effected at this point of time, their studies would be

disturbed.

5. During the course of arguments, learned counsel for the petitioner has brought to my notice that when a similar issue was raised before the Bombay High Court, the Management itself has undertaken not to effect transfers for certain period. A copy of the judgment of the Bombay High Court has been produced, and a perusal of the same would indicate that the said court, while granting time to the respondents therein for filing counter affidavit observed that transfers should not be effected for certain period. However, in the case on hand, counter affidavit has already been filed by the respondents, in which it is stated that the Transfer Policy was notified in the year 2002 and several officers were transferred during the years 2003 and 2005 on All-India basis. It is stated that all the aforesaid transfers took place in the middle of the academic year, following the Transfer and Mobility Policy.

6. It is to be seen that though such a Policy is in force, there cannot be any absolute prohibition for effecting transfers in the middle of the academic year, having regard to administrative exigency. The Apex Court, in the case of **State of U.P., and others V. Gobardhan Lal**[1], has categorically held that it is too late in the day for any Government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires and transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra in

the law governing or conditions of service. It was further held that the order of transfer made even in transgression of administrative guidelines cannot be also interfered with, as they do not confer any legally enforceable rights. It is also to be seen that the administrative policy notified by the Management is also in the shape of administrative guidelines and that does not as well confer any absolute right for its enforcement, in a petition filed under Article 226 of the Constitution of India.

7. Hence, I do not find any valid ground to grant relief as prayed for. Moreover, this writ petition has been filed by an Association. If any individual officer has any grievance in the event of his/her transfer in the middle of the academic year, it is always open for him/her to make appropriate representation before the authorities concerned, but that issue cannot be gone into in a petition filed under Article 226 of the Constitution of India.

8. The writ petition is devoid of merits and is accordingly dismissed keeping it open for individual officers to make representations to the respondents, in case they have any hardship on account of passing orders of transfer in the middle of the academic year. If such representations are made, it is equally open for the respondents to consider the same having regard to the hardship faced by the employees and also the administrative need. There shall be no order as to costs.

JUSTICE R. SUBHASH REDDY.

September 15, 2006
MRR

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[1] **AIR 2004 SC 2165**